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Section II: REMARKS

It is respectfully requested that the changes as noted above in Section I be made to the present application.

After the filing of applicant's Appeal Brief, the Examiner has withdrawn the Final Office Action mailed 7/7/05 and re-opened prosecution of the present application with the Office Action mailed 3/6/06.

In the above-referenced 3/6/06 Office Action, claims 1-28 were rejected under the first paragraph of 35 USC 112 as containing "subject matter not described in the specification in such a way as to reasonably **convey to one skilled in the relevant art that the inventor(s)**, at the time the application was filed, **had possession of the claimed invention**". It is submitted that the specification includes sufficient disclosure as to enable one skilled in the relevant art to practice the invention. It is here noted that claims 1-28 were not rejected under any paragraph of 35 USC 112, and were therefore presumed to be allowable, under 35 USC 112 first paragraph, in the Final Office Action mailed 7/7/05, but the very same claims 1-28 were rejected under 35 USC 112 for the very first time in the above mentioned Office Action mailed 3/6/06. Applicant submits that if claims 1-28 were allowable **under 35 USC 112** in July of 2005, they should still be allowable **under 35 USC 112** in March of 2006. It was further alleged in the noted Office Action that "There is no mention of disconnecting said server terminal from said client device, and re-connecting said server terminal to said client device **as implied by** (sic) claims, 1, 13, 25, 26 and 28. It is submitted that claims cannot be rejected based upon recitations that are **inferred by** the Examiner and not expressly stated in the claims.

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Thus, the rejection of claims 1-28 under the first paragraph of 35 USC 112 is respectfully traversed. However, in order to further the prosecution of the present application, and without waiving any of applicant's rights to argue the allowability of the originally presented claims in a subsequent appeal or other proceeding in the event that the Examiner does not concur that the present amendment places the application in condition for allowance, applicant has herein amended the noted claims for clarification purposes to place them in better condition for allowance or appeal. More specifically, **applicant has removed the "disconnecting" and "re-connecting" terminology** thereby **obviating the rejection of claims 1-28 under the first paragraph of 35 USC 112** and rendering the written description requirement issues moot. Thus, as herein amended, claims 1-28 are submitted to be in condition for allowance under the first paragraph of 35 USC 112.

Next, concerning the prior art rejections, claims 1, 2, 7, 9, 13-14, 19, 21 and 25-27 were rejected under 35 USC 102(b) as being anticipated by Potter et al (U. S. Patent 5,787,402, herein referred to as "Potter"), claims 3-6 and 15-18 were rejected under 35 USC 103(a) as being unpatentable over Potter, claims 10-12 and 22-24 were rejected under 35 USC 103(a) as being unpatentable over Potter in view of Davis (U.S. Patent 6,041,314, herein referred to as "Davis"), and claims 8 and 20 were rejected under 35 USC 103(a) as being unpatentable over Potter in view of Harrington et al (U.S. Patent 6,161,099, herein referred to as "Harrington"). Those prior art rejections are also respectfully traversed. However, in order to further the prosecution of the present application, and without waiving any of applicant's rights to argue the allowability of the originally presented claims in a subsequent appeal or other proceeding in the event that the Examiner does not concur that the present amendment places the application in condition for allowance, applicant has

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herein amended the claims for clarification purposes to place them in better condition for allowance or appeal.

The present invention provides a method and system in which a client is able to initiate an ongoing electronic transaction between a client communication device and a network terminal site. During a first communication between the client device and the server terminal through a first port, a separate second port is established for the subsequent direct transmission of transaction status messages from the server terminal back to the client or user device. Upon the occurrence of the subsequent event at the server terminal (such as a client bid dropping out of the top ten bids in an auction), the client device and the server terminal are re-connected and the transaction status change is communicated from the server terminal to the client device directly over the second port. The client is enabled to customize a signaling system at the user terminal to designate various signals to correspond to different kinds of the transaction status messages such that the client is signaled directly when a subsequent event such as a transaction status change occurs with respect to the electronic transaction initiated by the client.

All of the independent claims, 1, 13, 25, 26 and 28, and therefore all of the dependent claims as well, have herein been amended to recite an **auction transaction** for an item in which a server receives an input from a client device over a **first communication port** to initiate an electronic transaction, said electronic transaction **requiring a subsequent communication of an occurrence of a subsequent event from said server terminal to said client device**, establishing a **second communication port on said client device for directly coupling said server terminal to said client device**, coupling the server terminal to said client

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device **through said second communication port** by said server terminal **upon an occurrence of said subsequent event**, wherein the server is operable for **receiving bids** for said item and **determining when a previously received bid is no longer a winning bid** and **sending notice that said previously received bid is no longer a winning bid**, said notice comprising said transaction information sent **over said second communication port**, wherein the client device is further operable for detecting receipt of said transaction information by said client device and **providing a client-selected audio effect upon detection of receipt of said transaction information through said second communication port.**

Thus, as herein amended, the independent claims recite a clear sequence of functions for accomplishing an auction process in which, when a server determines that a previously submitted client bid is no longer a winning bid, the server communicates that information to the client, through a previously designated port, and the client device is operable in response to that communication to activate a client-selectable audible notification that the previously submitted bid is no longer a winning bid. None of the cited references, taken alone or in any combination, discloses, teaches or even suggests the entire combination and sequence of functions as clearly recited in the amended claims.

With specific regard to the rejection of claims 1, 2, 7, 9, 13-14, 19, 21 and 25-27 under 35 USC 102(b) as being anticipated by Potter, it is noted that Potter discloses a system for performing a financial transaction in which a bank program prompts a user for input and automatically assembles an offer response to the customer based on a number of different parameters. If the customer delays for too long in accepting the offer, the bank program automatically withdraws the offer and updates the offer

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to avoid a "stale" conversion rate. Potter does not disclose, *inter alia*, setting up a second communication port during a first communication through a first communication port, determining a prior bid is no longer a winning bid, communicating that information to a client device through the second communication port wherein the client device is operable in response to the communication coming in through the second communication port to provide a client-selected audio effect upon detection of receipt of said transaction information through the second communication port.

In the exemplary embodiment illustrated in the application, when a user is initiating an auction process through a first port, a second port is established for directly coupling said server and said client device upon an occurrence of a subsequent event. Nothing even similar is shown or suggested by Potter. Next in the example, the user is disconnected but is alerted and advised directly when the user's entered bid is no longer a winning bid (i.e. another bidder had entered a higher bid). Nothing even similar is shown or suggested by Potter. Next, the user is allowed to re-enter the auction site to place a new bid before the auction is completed. Nothing even similar is shown or suggested by Potter. The process disclosed and claimed by the applicant is accomplished through code on the server which is effective, in connection with the bidding process, to establish or initialize a new direct alert port (separate from the port being used for the initial registration) between the auction site and the user terminal for the transmission of messages from the auction site server to the user terminal. The server code compares the user's bid with subsequent received bids, and when the user's bid is no longer winning, the server sends a message to the user terminal over the assigned separate port to sound the user-selected audio alert scenario. When the user hears the

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alert, the user knows that the user's bid is no longer winning. At that time the user may return to the auction site to enter a new bid. There is not even a suggestion in Potter that a second port be established for subsequent communication, and that subsequent thereto, a second communication link be established by the server through the second port for communicating the occurrence of a subsequent event, i.e. the change of status of the entered bid. **The initial and subsequent communications through separate first and second ports is a necessary claimed element of the present invention but is not suggested anywhere in the Potter reference.** The establishment of a second port is required to enable the server to reconnect to the client upon the occurrence of a subsequent higher bid. In Potter, if the customer delays too long in accepting an offer from a bank, the offer is withdrawn and updated using the same port. Potter maintains a single port and merely changes offer terms and conditions. There is no establishment of a second port specifically assigned to communicate information from the server to the customer upon the occurrence of an event happening after the client has placed an initial bid. In view of the above-noted claimed elements **and relationships** which are not disclosed or taught by Potter, it is submitted that claims 1, 7, 9, 13, 19, 21 and 25-26, as herein amended, are allowable under 35 USC 102(b) over Potter. It is noted that this group of claims includes all of the independent claims 1, 13, 25, 26 and 28, and that amendments made to the independent claims as noted above are, through dependence, also included in all of the dependent claims as well.

It is further noted that claims 2, 8, 14, 20 and 27 have herein been cancelled without prejudice in the belief that the subject matter of those claims is adequately protected by the remaining claims.

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With regard to the rejection of claims 3-6 and 15-18 under 35 USC 103(a) as being unpatentable over Potter, it is noted that claims 3-6 and 15-18 are dependent claims which ultimately depend from and include all of the recitations set forth in one of the independent claims in addition to the recitations added in the individual dependent claims. Thus, for the reasons stated above, and since Potter does not even suggest the noted recitations as now presented in the amended claims, that claims 3-6 and 15-18 are allowable under 35 USC 103(a) over Potter.

With regard to the rejection of claims 10-12 and 22-24 under 35 USC 103(a) as being unpatentable over Potter in view of Davis, it is noted that claims 10-12 and 22-24 are dependent claims which ultimately depend from and include all of the recitations set forth in one of the independent claims in addition to the recitations added in the individual dependent claims. Thus, for the reasons stated above, it is submitted that, since neither Potter nor Davis even suggests the noted recitations now presented in the noted claims as herein amended, that claims 10-12 and 22-24 are allowable under 35 USC 103(a) over Potter even in view of Davis.

With regard to the rejection of claims 8 and 20 under 35 USC 103(a) as being unpatentable over Potter in view of Harrington, although that rejection is respectfully traversed, it is noted that, in order to further the prosecution of the present application, claims 8 and 20 have herein been cancelled without prejudice thereby obviating the stated rejection.

It should be noted that applicant is not claiming that each of the recited elements or functions, taken alone, are novel *per se*, but rather that the entire combination of recited elements, relationships and functional sequences, as set forth in the

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amended claims, is not anticipated or rendered obvious by any of the cited references, taken alone or in any combination.

Thus, it is submitted that claims 1, 3-7, 9-13, 15-19, 21-26 and 28, as herein presented, are believed to be in condition for allowance, an early notice of which is hereby requested. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting the allowance of this application, and especially if one or more new references are cited, the Examiner is invited to contact the undersigned at the telephone number indicated below, prior to the issuance of another Office Action, in order to allow the applicant the opportunity to further amend the claims by Supplemental Amendment or Examiner's Amendment, as may be appropriate, to place the claims in condition for allowance. The Examiner's attention to this matter is greatly appreciated.

Respectfully submitted,

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